

**David Lothspeich**

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**From:** Betsy.Gates@hklaw.com  
**Sent:** Friday, June 10, 2011 12:36 PM  
**To:** PKolb@lakecountyl.gov; PPerna@lakecountyl.gov; David Lothspeich; victor.filippini@hklaw.com; DJasica@lakecountyl.gov  
**Cc:** GWhite2@lakecountyl.gov  
**Subject:** RE: IGA - Herons Landing  
**Attachments:** LG\_ Intergovernmental Agreement with Lake Co. re\_ Heron\_s Landing water system.DOCX; Redline Comparison to May 20, 2011 version.pdf; Redline Comparison to May 27, 2011 version.pdf; Redline Comparison to June 3, 2011 version.pdf; LG\_ resolution approving intergovernmental agt with Lake County for Heron\_s Landing water system.DOC; WS\_BinaryComparison\_#10291008v2\_Active\_ - LG\_ resolution approving intergovernmental agt with Lake C.pdf

All,

Attached is a clean copy of the latest version of the Herons Landing agreement, as well as several redline versions. The redlines are labeled according to the date of the draft against which the current version is compared as follows:

1. Comparison to May 20, 2011 version -- this shows all changes since the draft agreement was circulated to the Village Trustees prior to the May 24 Board meeting
2. Comparison to May 27, 2011 version -- this shows all changes made since the draft I circulated on May 27
3. Comparison to June 3, 2011 version -- this shows only the changes made based on our Tuesday June 7 conference call

As a result of our conference call on Tuesday, we added a new Section 7.E requiring homeowners to, upon the sale of their home, either connect to the water system or demonstrate that their well water meets the standards applicable to public water systems. To make this provision enforceable against homeowners, the agreement places an obligation on the Village to enact an ordinance implementing these requirements.

Also, we have not yet filled in the blanks in Section 4.C with the amounts of the taxable and tax exempt bonds. The estimates prepared by the County as Exhibit C-1 (tax exempt: \$2,522,952 and taxable: \$716,000) exceed the Village's \$3,000,000 bonding authority under the SSA. Therefore, we will need to revise the Exhibit so that the combined amount of the taxable and tax exempt bonds are not more than \$3,000,000, even if it is expected that the costs of the public and private improvements will actually exceed that amount.

Dave--I have also attached a revised version of the Village resolution approving the agreement, and a redline showing the changes made since the last Board meeting. The resolution was changed to add a new section providing that the Board will consult with the HOA if SSA taxes would exceed \$2,500 per single family residence per year for 30 years.

Please contact me if you have any questions.

Thanks,  
 Betsy

6/10/2011

**Betsy Gates | Holland & Knight**

Associate

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**From:** Kolb, Peter [mailto:PKolb@lakecountyil.gov]**Sent:** Friday, June 03, 2011 3:20 PM**To:** Gates, Betsy L (CHI - X65749); Perna, Philip M.; lothsd@longgrove.net; Filippini, Vic (CHI - X66560); Jasica, Daniel L.**Cc:** White, Gordon P.**Subject:** RE: IGA - Herons Landing

Betsy,

In our cursory review of the revised agreement we see that the major items we discussed have been modified and they look very good. However Phil and I spoke with Dan Jasica this morning and we are still not satisfied that there is not some type of time limit for a home to connect to the public water system. If there is no requirement to connect, some of these properties may never connect.

We think that there can be conditions included in this IGA that would trigger a requirement to make a connection. These conditions would be:

1. **Required upon the sale of the property.** (Current License Agreement and Release is with the current homeowner and any new homeowner would not be party to the original agreement and original understanding. Might even need a new License Agreement with new owner.)
2. **Required upon failure or repair of well.** (The Health Department would not issue a permit for repair or replacement of a well if there is a public water system available.)
3. **A Notice of Public Water Availability** would be recorded with each property not connected to the water system. (Assures that the property would not clear title upon sale without first making a water system connection. A copy of a similar instrument for a sewer system connection is included for your information)

The other possibility that we discussed is the concept of a minimum monthly charge for those properties that do not connect. The charge would reflect the cost of maintenance and fire protection availability of the water system which everyone derives benefit whether connected or not. Month minimum would be 3 x \$5.75= \$17.25.

I know that this is something new to discuss so I would ask that everyone look this over and please give us your thoughts and comments. Thanks

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Peter E. Kolb**From:** Betsy.Gates@hklaw.com [mailto:Betsy.Gates@hklaw.com]**Sent:** Friday, June 03, 2011 2:25 PM**To:** Perna, Philip M.; Kolb, Peter; lothsd@longgrove.net**Cc:** victor.filippini@hklaw.com; Jasica, Daniel L.**Subject:** RE: IGA - Herons Landing

Attached are clean and red-line copies of the latest draft of the Herons Landing agreement. This version

6/10/2011

incorporates the revisions we discussed yesterday, and the red-line shows all changes made since the last draft I circulated on May 27. We are also working on the revisions to the County's license agreement for the work to be performed on the individual lots.

Please contact Vic or me with any questions.

Thanks,  
Betsy

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**From:** Perna, Philip M. [mailto:PPerna@lakecountyl.gov]  
**Sent:** Thursday, June 02, 2011 10:17 AM  
**To:** Gates, Betsy L (CHI - X65749); Kolb, Peter; lothsd@longgrove.net  
**Cc:** Filippini, Vic (CHI - X66560); Jasica, Daniel L.  
**Subject:** RE: IGA - Herons Landing

We spoke this morning with Dan Jasica regarding the latest version of the IGA and the License Agreement. We believe there are issues that must be addressed with the agreement and the license agreement that include the following.

- Including language in the IGA that requires the residents to connect to and begin the use of new water source within 5 years or upon sale of the property. We have never allowed residents to have the option to not connect with a specific time frame for connection and believe it is necessary and appropriate in this case.
- We need the license agreement to be revised to stipulate the same terms as indicated in the IGA regarding limited restoration requirements upon the County and further provide a waiver or hold harmless relative to exterior and interior restoration.

If possible, we would propose a teleconference, as soon as today at 3:00 or 4:00 p.m. to discuss these issues.

Phil Perna  
Assistant Director of Public Works  
847.377.7124  
pperna@lakecountyl.gov



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**From:** Betsy.Gates@hklaw.com [mailto:Betsy.Gates@hklaw.com]  
**Sent:** Friday, May 27, 2011 10:00 AM  
**To:** Kolb, Peter; lothsd@longgrove.net; Perna, Philip M.

**Cc:** victor.filippini@hklaw.com  
**Subject:** IGA - Herons Landing

All,

Attached are clean and red-lined copies of the latest draft of the intergovernmental agreement for the Herons Landing water system, incorporating the changes we discussed in our recent conference calls. We are still reviewing the agreement, to make sure that the latest changes do not create any inconsistencies within the document. But in order to give everyone a chance to review and comment on the draft, we wanted to circulate it to all of you, as we continue our review.

Please contact Vic or me with any comments or questions.

Thanks,  
Betsy

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**From:** Kolb, Peter [mailto:PKolb@lakecountyil.gov]  
**Sent:** Tuesday, May 24, 2011 9:21 AM  
**To:** 'David Lothspeich'; Filippini, Vic (CHI - X66560)  
**Cc:** Gates, Betsy L (CHI - X65749); Perna, Philip M.  
**Subject:** RE: IGA - Herons Landing

Both Phil Perna and I are available anytime today for this discussion.

I figured excluding the service lines work would cause an issue. If this becomes an obstacle we are willing to keep this work as part of our project.

Peter E. Kolb

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**From:** David Lothspeich [mailto:lothsd@longgrove.net]  
**Sent:** Tuesday, May 24, 2011 9:05 AM  
**To:** victor.filippini@hklaw.com; Kolb, Peter  
**Cc:** Betsy.Gates@hklaw.com; Perna, Philip M.  
**Subject:** FW: IGA - Herons Landing

Peter and Vic,

FYI, would you be available for a conference call today to discuss these items. If so, Vic please provide a call in number and time.

Thanks,  
Dave

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**From:** David Wolfe [mailto:dwolfe@coveredbridgeconstruction.com]  
**Sent:** Monday, May 23, 2011 8:55 PM  
**To:** David Lothspeich  
**Cc:** bmass@massrealtyllc.com  
**Subject:** IGA - Herons Landing

Dave,

A couple things – first, I want to get a copy of the IGA out to the entire neighborhood – when would you recommend that we do that.

Secondly, excluding the water line run from B Box to the House from the county scope of work would be a major problem. We initially wanted to exclude this work, but were convinced by Peter Kolb to included it. The foundation of what we have communicated to the neighborhood included the fact that the County would be responsible for the project – including the water line run from the street to the house. I believe this would be a material change and would necessitate a new vote and starting over from scratch on the project – something I don't want to do.

These are my notes and issues regarding the IGA – please let me know your thoughts:

Item 1) Page 1 item H: not necessary, contentious within those that are not in favor of the project

Item 2) Page 3 item: "Private Improvements" – overly general, not going to replace the ceiling or drywall of a home that has a finished basement and the homeowner wants the water supply to come into the home at the side as opposed to the immediate area of the utility room housing the current water connection. Conditions must dictate – any additional or supplemental work should be paid for by the individual homeowner . . .

Item 3) Page 5 – Item E: I would like for our HOA to be able to review the bids as well.

Item 4) Page 6 - Item 2: need to include Herons Landing input on this. Majority of homeowners may want to move ahead with the project even in light of new information.

Item 5) Page 6 – Section a. Paragraph two – does this mean that the bond will have an early call option?

Item 6) Page 8 – Section B, items 2 &3: New and additional fees not previously disclosed. Need parameters of the expected expenses. Especially item #3 – supplementary reporting to the Village should not be the burden of the residents. If Long Grove didn't want to eventually use their allocation of Lake Michigan water, this would not be necessary . . .

Item 7) Page 9 – Paragraph D: There should be no unique or individual watering restrictions placed upon Herons Landing because they have wells AND municipal water

– restrictions upon the use of municipal water for irrigation and lawn watering would be understandable.

Item 8) Page 9 – Section 7, Paragraph A: Need to include and indicate that in addition to Irrigation purposes, wells are being kept for FIRE SUPPRESSION SYSTEMS – additionally, not everybody wants to hook up to the Municipal Water system – and will be keeping their wells. I would like to see something that indicates that neither the Village or the County will impose any restrictions or conditions upon the existing wells in Herons Landing that they do not impose blanket wide across either the entire Village or the entire County.

Item 9) Page 9 – Section 7, Paragraph B: Item (ii) is overly general – an inspection is certainly appropriate at the time of the installation / change over – and annual inspections that are currently required on backflow prevention devices would be acceptable – but a blanket “periodic inspection” statement is overly onerous. There aren’t blanket statements to come into a house to inspect any other systems – at the discretion of the Village or the County – this system should be no different.

Item 10) Page 10 – Paragraph C: protective and monitoring devices – required by the county – at the initial cost and also responsible for any future or subsequent repair costs to the homeowner? This seems to me like it should be part of the county system and not the individual resident. Any idea of the cost of the device – cost of repairs or future replacement?

Item 11) Page 10 – Paragraph E: 2 days prior written notice does not seem sufficient for a resident to facilitate an inspection. Notice should be a minimum of 10 days – also, is the County only looking at the municipal water connection or they using the inspection as an opportunity to inspect other plumbing or electrical infractions they may see while there . . .

Item 12) Page 10 – Paragraph C (continued on to page 11): There can be substantial additional expense and subsequent costs and exposure to the residents of Herons Landing primarily because Long Grove wants to utilize their Lake Michigan water allocation. These costs and exposures should be borne by the Village – as it is the Village that will benefit by utilizing their allocation so they can keep it for the future. Herons Landing does not benefit one way or the other by utilizing the Long Grove Vs. Lake County water allocation.

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